

costs prevents you from meeting the requirements of this chapter.

(2) Not having the exemption will jeopardize the solvency of your company.

(3) No other allowances are available under the regulations in this chapter to avoid the impending violation.

(d) In describing the steps you have taken to comply under paragraph (c)(1) of this section, include at least the following information:

(1) Describe your business plan, showing the range of projects active or under consideration.

(2) Describe your current and projected financial status, with and without the burden of complying fully with the applicable regulations in this chapter.

(3) Describe your efforts to raise capital to comply with regulations in this chapter (this may not apply for importers).

(4) Identify the engineering and technical steps you have taken or those you plan to take to comply with regulations in this chapter.

(5) Identify the level of compliance you can achieve. For example, you may be able to produce engines/equipment that meet a somewhat less stringent emission standard than the regulations in this chapter require.

(e) Include in your request a plan showing how you will meet all the applicable requirements as quickly as possible.

(f) You must give us other relevant information if we ask for it.

(g) An authorized representative of your company must sign the request and include the statement: "All the information in this request is true and accurate to the best of my knowledge."

(h) Send your request for this extension at least nine months before the relevant deadline. If different deadlines apply to companies that are not small-volume manufacturers, do not send your request before the regulations in question apply to the other manufacturers. Otherwise, do not send your request more than three years before the relevant deadline.

(i) We may include reasonable requirements on an approval granted under this section, including provisions to recover or otherwise address the lost

environmental benefit. For example, we may require that you meet a less stringent emission standard or buy and use available emission credits.

(j) We may approve extensions of the compliance deadlines as reasonable under the circumstances up to one model year at a time, and up to three years total.

(k) Add a permanent label to all engines/equipment exempted under this section, consistent with §1068.45, with at least the following items:

(1) The label heading "EMISSION CONTROL INFORMATION".

(2) Your corporate name and trademark.

(3) Engine displacement (in liters or cubic centimeters), and model year of the engine/equipment (as applicable); or whom to contact for further information. We may also require that you include maximum engine power.

(4) A statement describing the engine's status as an exempted engine:

(i) If the engine/equipment does not meet any emission standards, add one of the following statements:

(A) "THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.250 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(B) "THIS EQUIPMENT IS EXEMPT UNDER 40 CFR 1068.250 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS."

(ii) If the engine/equipment meets alternate emission standards as a condition of an exemption under this section, we may specify a different statement to identify the alternate emission standards.

**§ 1068.255 What are the provisions for exempting engines and fuel-system components for hardship for equipment manufacturers and secondary engine manufacturers?**

This section describes how, in unusual circumstances, we may approve an exemption to prevent hardship to an equipment manufacturer or a secondary engine manufacturer. This section does not apply to products that are subject to equipment-based exhaust emission standards.

(a) *Equipment exemption.* As an equipment manufacturer, you may ask for

approval to produce exempted equipment for up to 12 months. We will generally limit this to the first year that new or revised emission standards apply. Send the Designated Compliance Officer a written request for an exemption before you are in violation. In your request, you must show you are not at fault for the impending violation and that you would face serious economic hardship if we do not grant the exemption. This exemption is not available under this paragraph (a) if you manufacture the engine or fuel-system components you need for your own equipment, or if complying engines or fuel-system components are available from other manufacturers that could be used in your equipment, unless we allow it elsewhere in this chapter. We may impose other conditions, including provisions to use products meeting less stringent emission standards or to recover the lost environmental benefit. In determining whether to grant the exemptions, we will consider all relevant factors, including the following:

- (1) The number of engines or fuel-system components involved.
- (2) The size of your company and your ability to endure the hardship.
- (3) The amount of time you had to redesign your equipment to accommodate complying products.
- (4) Whether there was any breach of contract by a supplier.
- (5) The potential for market disruption.

(b) *Engine and fuel-system component exemption.* As an engine manufacturer or fuel-system component manufacturer, you may produce nonconforming products for the equipment we exempt in paragraph (a) of this section. You do not have to request this exemption but you must have written assurance from equipment manufacturers that they need a certain number of exempted products under this section. Label engines or fuel-system components as follows, consistent with § 1068.45:

(1) *Engines.* Add a permanent label to all engines/equipment exempted under this section with at least the following items:

- (i) The label heading “EMISSION CONTROL INFORMATION”.

(ii) Your corporate name and trademark.

(iii) Engine displacement (in liters or cubic centimeters) and model year of the engine, or whom to contact for further information. We may also require that you include maximum engine power.

(iv) If the engine does not meet any emission standards: “THIS ENGINE IS EXEMPT UNDER 40 CFR 1068.255 FROM EMISSION STANDARDS AND RELATED REQUIREMENTS.” If the engine meets alternate emission standards as a condition of an exemption under this section, we may specify a different statement to identify the alternate emission standards.

(2) *Fuel-system components.* Add a permanent label to all engines/equipment exempted under this section with at least the following items:

- (i) Your corporate name and trademark.
- (ii) The statement “EXEMPT UNDER 40 CFR 1068.255”.

(c) *Secondary engine manufacturers.* As a secondary engine manufacturer, you may ask for approval to produce exempted engines under this section for up to 12 months. We may require you to certify your engines to compliance levels above the emission standards that apply. For example, in the case of multiple tiers of emission standards, we may require you to meet the standards from the previous tier.

(1) The provisions in paragraph (a) of this section that apply to equipment manufacturers requesting an exemption apply equally to you except that you may manufacture the engines. Before we approve an exemption under this section, we will generally require that you commit to a plan to make up the lost environmental benefit.

(i) If you produce uncertified engines under this exemption, we will calculate the lost environmental benefit based on our best estimate of uncontrolled emission rates for your engines.

(ii) If you produce engines under this exemption that are certified to a compliance level less stringent than the emission standards that would otherwise apply, we will calculate the lost environmental benefit based on the compliance level you select for your engines.

(2) The labeling requirements in paragraph (b) of this section apply to your exempted engines; however, if you certify engines to specific compliance levels, state on the label the compliance levels that apply to each engine.

**§ 1068.260 What general provisions apply for selling or shipping engines that are not yet in their certified configuration?**

Except as specified in paragraph (e) of this section, all new engines in the United States are presumed to be subject to the prohibitions of § 1068.101, which generally require that all new engines be in a certified configuration before being introduced into U.S. commerce. All emission-related components generally need to be installed on an engine for such an engine to be in its certified configuration. This section specifies clarifications and exemptions related to these requirements for engines. Except for paragraph (c) of this section, the provisions of this section generally apply for engine-based standards but not for equipment-based standards.

(a) The provisions of this paragraph (a) apply for emission-related components that cannot practically be assembled before shipment because they depend on equipment design parameters.

(1) You do not need an exemption to ship an engine that does not include installation or assembly of certain emission-related components, if those components are shipped along with the engine. For example, you may generally ship aftertreatment devices along with engines rather than installing them on the engine before shipment. We may require you to describe how you plan to use this provision.

(2) You may ask us at the time of certification for an exemption to allow you to ship your engines without emission-related components. If we allow this, we may specify conditions that we determine are needed to ensure that shipping the engine without such components will not result in the engine being operated outside of its certified configuration. See paragraph (d) of this section for additional provisions that apply in certain circumstances.

(b) You do not need an exemption to ship engines without specific components if they are not emission-related components identified in Appendix I of this part. For example, you may generally ship engines without radiators needed to cool the engine.

(c) If you are a certificate holder, partially complete engines shipped between two of your facilities are exempt, subject to the provisions of this paragraph (c), as long as you maintain ownership and control of the engines until they reach their destination. We may also allow this where you do not maintain actual ownership and control of the engines (such as hiring a shipping company to transport the engines) but only if you demonstrate that the engines will be transported only according to your specifications. See § 1068.261(b) for the provisions that apply instead of this paragraph (c) for the special case of integrated manufacturers using the delegated-assembly exemption. Notify us of your intent to use this exemption in your application for certification, if applicable. Your exemption is effective when we grant your certificate. You may alternatively request an exemption in a separate submission; for example, this would be necessary if you will not be the certificate holder for the engines in question. We may require you to take specific steps to ensure that such engines are in a certified configuration before reaching the ultimate purchaser. Note that since this is a temporary exemption, it does not allow you to sell or otherwise distribute to ultimate purchasers an engine in an uncertified configuration. Note also that the exempted engine remains new and subject to emission standards (see definition of “exempted” in § 1068.30) until its title is transferred to the ultimate purchaser or it otherwise ceases to be new.

(d) See § 1068.261 for delegated-assembly provisions in which certificate-holding manufacturers introduce into U.S. commerce engines that are not yet equipped with certain emission-related components. See § 1068.262 for provisions related to manufacturers introducing into U.S. commerce partially complete engines for which a secondary